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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,810	08/21/2003	Klaus Maier	241772US6	6169

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
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ALEXANDRIA, VA 22314

EXAMINER

BURNHAM, SARAH C

ART UNIT PAPER NUMBER

3636

DATE MAILED: 08/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,810

Applicant(s)

MAIER ET AL.

Examiner

Sarah C. Burnham

Art Unit

3636

MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/5/2003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information referred to in the information disclosure statements filed on November 5, 2003 has been considered as to the merits.

Specification

3. The abstract of the disclosure is objected to because it appears as if a typo appears at the end of the abstract. The words "Figure 1" appear at the bottom of the page and do not seem to be any part of the abstract. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following words/phrases lack sufficient antecedent basis:

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- the armrest carrier (claim 1, line 2; claim 1, lines 15-16; claim 2, line 3; claim 4, line 2))
- the arm support (claim 1, line 3; claim 1, line 5; claim 1, line 10; claim 1, lines 11-12; claim 1, line 18; claim 4, line 12; claim 6, line 2; claim 7, line 2)
- the axis of symmetry (claim 1, lines 7-8; claim 1, line 18; claim 2, line 3)
- the seat direction (claim 1, lines 8-9; claim 4, line 4; claim 4, line 12)
- the guide noses (claim 1, line 13; claim 3, line 7)
- the rotary bearing (claim 1, line 15; claim 4, line 6)
- the top end (claim 1, line (15))
- the vertical distance (claim 2, line 2)
- the eccentric point of rotation (claim 2, lines 2-3)
- the underside (claim 3, line 3)
- the screws (claim 3, line 4)
- the retaining screws (claim 3, line 8)
- the seat (claim 4, line 3)
- the circumference (claim 4, line 9)
- the underside (claim 4, line 11)
- the guide housing (claim 4, line 11)
- the rotary direction (claim 4, line 12)
- the longitudinal direction (claim 5, line 3)
- the chair (claim 5, line 3; claim 5, lines 4-5; claim 8, line 3)
- the clear distance (claim 5, line 4; claim 8, line 2)

- the two arm supports (claim 5, line 4; claim 8, line 2)

In claim 2, lines 3-4, Applicant states that the distance between the eccentric point of rotation and the axis of symmetry of the arm support "is between 5 and 15 mm, preferably 10 mm." This language is indefinite because it includes both a specific value and a broad range within the same claim.

Allowable Subject Matter

6. Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
7. Claims 2-8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to adjustable armrests in general:

- Ritt et al. (6,106,070)
- Chen (US 2003/0030317)
- Wu (5,931,536)
- Tseng (5,927,811)


- Gibbs (5,590,934)
- Roslund, Jr. et al. (6,619,746)
- Hu (6,059,366)
- VanHekken et al. (6,053,578)
- Hansen (6,502,904)
- Snyder et al. (5,749,628)

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah C. Burnham whose telephone number is 703-305-7315. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SCB


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600

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August 11, 2004